CH. J. WILLIAMS said: "Questions arising under the constitution, settled by a long and uniform practice, and sanctioned by a judicial decision, should be considered as at rest." See *Boyden* v. *Town of Brookline,* 8 Vt. 284 (1836); *Briscoe* v. *Bank of the Commonwealth of Kentucky,* 11 Pet. Rep. 257-318 (1837). It is generally conceded that "law of the land" and "due process of law" mean the same thing, whatever that is, and if they were combined to read "due process of the law of the land," CH. J. ROWELL of the Vermont Supreme Court, claims their meaning would not be changed. The exact point in question was passed on by the United States Supreme Court in *Hurtado* v. *People of California,* 110 U. S. 516 (1884), which held that a conviction upon an information for murder and a sentence of death thereon, are not illegal by virtue of the 14th Amendment, which prohibits the States from depriving any person of life, liberty or property without due process of law. In *Brown* v. *Levee Commissioners,* 50 Miss. 468 (1874), the court says that the bill of rights does not take from the legislature the power to amend the law. Utah interprets "due process of law" as meaning law in the regular course of administration through the courts. *In re McKee,* 19 Utah 231 (1899). Also Kentucky and New York. See *Garnett* v. *Jennings,* 44 S. W. Rep. 382 (1898), and *Westervelt* v. *Gregg,* 12 N. Y. 202 (1854). The use of the information in felony cases has been allowed in several States whose constitutions made no special provisions therefor. The constitutions of other States have been amended to authorize such use, and in still others, special acts of the legislatures have been passed adopting it. See *Kallock* v. *Superior Court,* 56 Cal. 229; *Lybarger* v. *State,* 2 Wash. 552 (1891); *In re Boulter,* 5 Wyo. 329 (1895); *Kansas* v. *Whisner,* 35 Kan. 271 (1886); *State* v. *Moore,* 46 Atl. Rep. 669 (1899); *State* v. *Jones,* 168 Mo. 398 (1902); *State* v. *Tucker,* 36 Ore. 291 (1900); *Rowan* v. *State,* 30 Wis. 129 (1872). However, some States hold the other way, notably Massachusetts. See *Jones* v. *Robbins,* 8 Gray 329 (1857). Also *In re Lowrie,* 8 Colo. 499, holding a statute unconstitutional, which prohibited summoning and impaneling of grand jury in any criminal court.

CONTRACTS—AGREEMENT TO EMPLOY ONLY MEMBERS OF A CERTAIN UNION. —The defendant contracted with a labor union to employ for a certain time only members of that union and to "cease to employ" any one who should be reported by the proper officers not to be in good standing. The contract having been broken, plaintiff union brought suit on a promissory note given by the defendant to secure faithful performance on his part. *Held,* (JUDGES VANN and BARTLETT dissenting and O'BRIEN J. absent), that the contract was valid. *Jacobs* v. *Cohen et al.* (1905), — N. Y. —, 76 N. E. Rep. 5.

This case reverses the holding of the Supreme Court, Appellate Division (90 N. Y. Supp. 854, 99 App. Div. 481). In the case of *Curran* v. *Galen* (1897), 152 N. Y. 33, 46 N. E. 297, 37 L. R. A. 802, 57 Am. St. Rep. 496, it was held that an agreement between an employer and a union by which the former agreed to hire only members of the latter, was no defense to an action by an employee against the union for procuring his discharge. To the same effect is *Berry* v. *Donovan* (1905), — Mass. —, 74 N. E. 603. In the last

named case, CHIEF JUSTICE KNOWLTON said: "The attempt to force all laborers to combine into unions is against the policy of the law, because it aims at monopoly. Labor unions cannot be permitted to drive men out of employment because they choose to work independently." The court in the principal case discusses *Curran* v. *Galen,* and endeavors to distinguish it. The court said: "I endeavored to point out [in *Curran* v. *Galen*] that it [the agreement] could not legalize a plan for compelling other working men to join the defendants' organization, at the peril of being deprived of employment and of making a livelihood." It is difficult to comprehend how the agreement in the principal case, if lived up to could have any other effect. JUDGE VANN, in the dissenting opinion, cites and relies on the *Curran* case as directly in point. It is not believed that the cases are on principle distinguishable since the point necessarily decided in each was the validity or invalidity of a certain contract substantially alike in the two cases. The fallacy of the argument by which contracts such as the one now in question are sought to be upheld, seems to lie in assuming that since every man is free to enter into such business relations as he may see fit, it must follow that one's volition in this matter may, for a proper consideration, be surrendered to another. The conclusion is not a legitimate one. There are some things which are not vendible. The employer's right of personal liberty cannot be sold—the institution of slavery now exists only as a part of history. The contract involved in the principal case would seem to be unenforceable as being in unlawful restraint of trade.

CONTRACTS—PUBLIC POLICY—LOCATION OF DEPOTS.—Plaintiff seeks to enforce a promissory note for $75.00 given in consideration of the location of a depot of the Denver, Enid & Gulf Railroad Company on defendant's land. *Held,* agreement is against public policy and unenforceable. *Enid Right of Way & Townsite Co.* v. *Lile* (1905), — Okla. —, 82 Pac. Rep. 810.

The court was evenly divided, two opposite and well-reasoned opinions being given, each considering the contract to have the same effect as though it were made with the railroad company. The argument was that since the location of depots is a public trust of the quasi-public railroad corporation, in the untrammeled discharge of which the public has an interest and right, therefore, any contract, as the one under consideration, for the payment of money on condition that a depot be located at a certain point is invalid, because of its tendency to induce the railroad to consult its own rather than the public's interest. *St. Jos. & D. C. Ry. Co.* v. *Ryan,* 11 Kan. 602; *Marsh* v. *F. P. & N. Ry. Co.,* 64 Ill. 414; *Thomas* v. *West Jersey Ry. Co.,* 101 U. S. 71; *Holladay* v. *Patterson,* 5 Ore. 177. If the directors or agents are to receive any secret or private advantage, the contract is corrupt and illegal. *Fuller* v. *Dame,* 18 Pick. 472; *Pacific Railroad Co.* v. *Seely,* 45 Mo. 212. But contracts for location with the corporation itself are not void *per se;* 23 AM. & ENG. ENC. OF LAW (2nd ed.) 689. If they do not prohibit location elsewhere, by the weight of authority they are considered valid. *Lyman* v. *Suburban Ry. Co.,* 190 Ill. 320; *McClure* v. *Mo. River etc. Ry. Co.,* 9 Kan. 373; *Tucker* v. *Allen,* 16 Kan. 312; *Taylor* v. *Cedar Rapids & St. Paul Ry.*